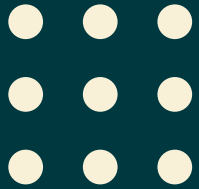




North Carolina Association  
of County Commissioners



# Digging into the Details: Sales and Use Taxes

Denise Canada  
NCACC Fiscal Policy & Research Director  
August 24, 2023

# TOPICS

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Sales Tax Basics

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Local Sales Tax Articles

---

Redistribution

---

Use of Proceeds

---

Referenda

---

The Medicaid Swap



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# Today's Key Points

1

Multiple local sales taxes.

2

What you levy isn't necessarily what you receive.

3

Some tax revenues are legally earmarked.

4

Be aware to avoid legal political or legal trouble.



# The Basics

## Multiple taxes

- State & counties each levy sales taxes.

## State levies 4.75%

- State keeps all the proceeds.

## Counties levy 2% - 2.75%

- Proceeds are shared among locals.

## Separate State 7% rate

- A few items are taxed (only) at a different State rate



# Who Does What?

## County Commissioners

Choose:

- Which taxes to put to the voters
- Whether to levy a tax if the voters have approved it
- How to divvy tax proceeds among the towns
- How to spend tax proceeds

# Who Does What?

## County Staff

- Notify DOR of new taxes
- Track proceeds from each sales tax separately
- Forecast revenue (very difficult!)
- Set aside legally-required earmarks for school capital
- Distribute funds to other entities (e.g., volunteer fire depts.) if required

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---

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---

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# Local Sales Taxes: “The First 2¢”

Art.	Rate	Distribution	Restricted?	Shared with towns?
39	1%	Point of sale	No	Yes
40	1/2%	Mostly per capita	Counties must dedicate 30% to school capital.	Yes
42	1/2%	Mostly point of sale	Counties must dedicate 60% to school capital.	Yes



# Local Sales Taxes: Article 43

Rate	Distribution	Restricted?	Shared with towns?
1/2%: Durham, Forsyth, Guilford, Meck, Orange, & Wake  1/4%: All others.	All proceeds to the taxing county.	For local public transit systems; may not supplant.	Yes, if the towns operate public transit.

→ Doesn't apply to food (groceries)

→ Levied by Durham, Orange, Mecklenburg, and Wake.

→ 1 other referendum (New Hanover, unsuccessful in 2022)

# Local Sales Taxes: Article 46

Rate	Distribution	Restrictions on use	Shared with towns?
1/4 %	All proceeds go to the taxing county.	None	No

→ Often called “the optional quarter cent”

→ Doesn't apply to food (groceries)

→ Authorized in 2007

→ 47 counties levy

→ 31 additional counties have held unsuccessful referenda.

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---

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---

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---

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---

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---

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## What is it?

A series of formulas allocating local tax proceeds among local governments

## Who determines it?

General Assembly, in Statute (Chapter 105)

## Is it constitutional?

...

# Sales Tax Redistribution



The State takes  
the proceeds  
of locally-levied  
taxes and  
redistributes the money  
as it chooses.



# Redistribution: Main Pieces

The First 2%

Article 39

Article 40

Article 42

Grocery

Other

Grocery

Other

Grocery

Other

# Distribution Example: March 2023

→ \$257,000 collected from sales in Allegheny County

→ \$257,000 collected from sales in Greene County.

	Allegheny	Greene
Article 39 non-grocery	\$80,000	\$85,000
Article 40 non-grocery	\$73,000	\$121,000
Article 42 non-grocery	\$39,000	\$42,000
Grocery per capita	\$21,000	\$34,000
Grocery 97-97 point of sale	\$24,000	\$19,000
<u>2015 Redistribution</u>	<u>\$36,000</u>	<u>\$139,000</u>
<b>Total</b>	<b>\$273,000</b>	<b>\$440,000</b>

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---

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---

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---

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---

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---

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---

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# Use of Proceeds: Sharing with Towns

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- Counties must share the proceeds of the First 2¢ with every town (and portion of town) within their jurisdiction by either:
    1. Ad Valorem basis (meaning, based on each jurisdiction's share of total property taxes levied)
    2. Per Capita basis
  - Town money goes directly to towns
  - Counties that wish to change methods must pass a board resolution in April.
-

# Use of Proceeds: Sharing with Towns

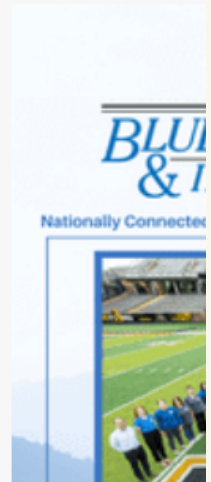
# High Country Press

FRONT PAGE | SPORTS | CRIME | LETTERS | BUSINESS | OBITS | WEATHER | POLITICS | APP STATE |

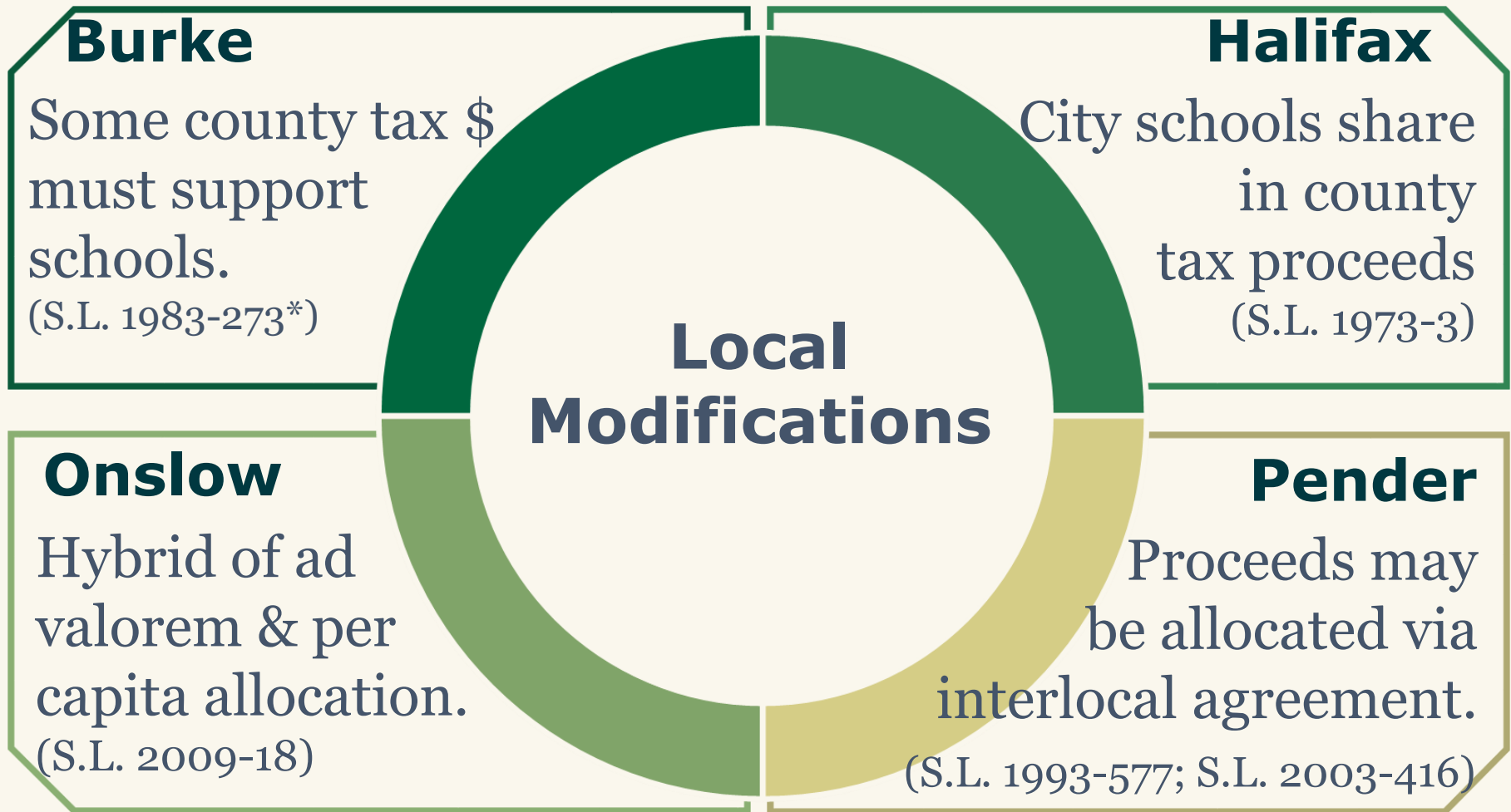
## Town of Boone Files Lawsuit Against Watauga County Over Sales Tax Distribution

🕒 Published: Friday, February 21, 2020 at 5:29 pm

On Thursday, February 20, 2020, the Town of Boone filed legal action in Watauga County Superior Court in an effort to stop Watauga County from continuing to utilize a sales tax distribution scheme that is not allowed under state law. Multiple requests by the Town of Boone to the Watauga County Commission to return to a more equitable basis for dividing sales tax



# Use of Proceeds: Sharing with Towns



\* S.L. 1983-273 as modified by SL 1983-1034, Sec. 127; by S.L. 1985-326; and by S.L. 2006-264

# Use of Proceeds: County Share

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## School Capital Set Aside

- 30% of county proceeds under Article 40
- 60% of county proceeds under Article 42
- The LGC has authority to waive this requirement if a county can prove that it is unneeded.
- The LGC somewhat monitors county compliance.

## For Ad Valorem Counties Only

- Must distribute tax proceeds to other Ad Valorem taxing districts (e.g. rural fire protection districts)
-

# Use of Proceeds: 2015 Redistribution

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- 79 counties receive funds from the 2015 redistribution (GS 105-524)
- Funds may only be used for:

**1** Economic Development

**2** Public Education

**3** Community Colleges

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---

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---

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---

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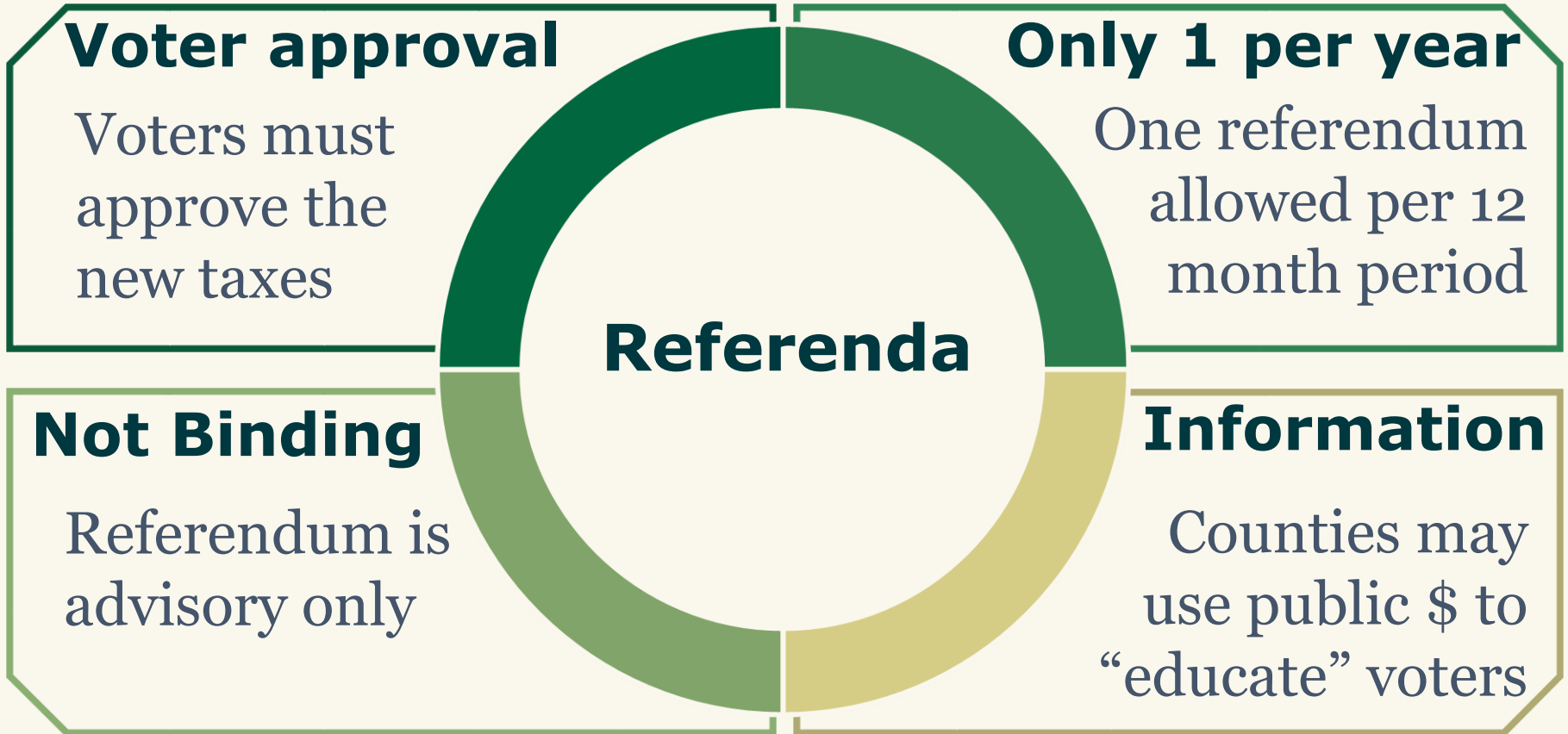
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# Referenda: The Basics



# Referenda: Promoting with Tax \$



## THE CAROLINA JOURNAL



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NEWS

### Guilford County accused of illegal electioneering in favor of school bond referendum, sales tax hike



DAVID N. BASS

MAY 5, 2022





Seek legislation allowing counties to include specific language on the sales tax referendum ballot designating how the proposed proceeds will be spent.

~ Persistent NCACC Legislative Goal



## Article 43

FOR  AGAINST

[1/2 % or 1/4%]  
local sales and use tax,  
in addition to the current  
local sales and use  
taxes, to be used only  
for public transportation  
systems.

## Article 46

FOR  AGAINST

Local sales and use tax  
at the rate of one-  
quarter percent (0.25%)  
in addition to all other  
state and local sales and  
use taxes.



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# Referenda: Ballot Question

**MARKETPLACE**  
Search For & Place Classifieds

**Citizen Times**

Local Sports High School Huddle Scene Lifestyle Obituaries eNewspaper Legals 63°

LOCAL

## Voters were promised a sales tax would be for A-B Tech projects alone. That didn't happen.

 **Jennifer Bowman**  
The Citizen-Times

Published 7:00 p.m. ET Oct. 4, 2018 | Updated 8:56 p.m. ET Nov. 12, 2019



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---

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# The 2007 Medicaid Swap

1

State assumed counties' Medicaid costs.

2

Counties gave up Art. 44 1/2¢ sales tax. Cities also lost this tax revenue.

3

City Hold Harmless created with county \$.

4

County Hold Harmless created with state \$.



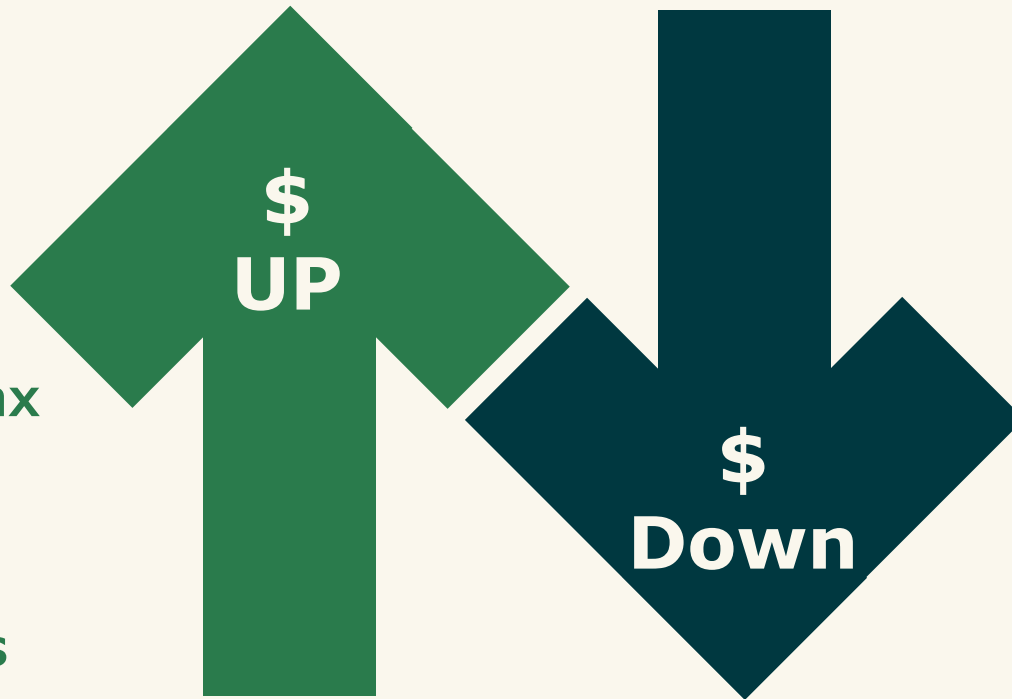
# The Medicaid Swap

**Stronger  
Economy**

**Fewer People  
on Medicaid**

**More Sales Tax  
Revenue**

**Value of the  
1/2¢ increases**



**Weaker  
Economy**

**More People  
on Medicaid**

**Less Sales Tax  
Revenue**

**Value of the  
1/2¢ decreases**

# Questions?

[denise.canada@ncacc.org](mailto:denise.canada@ncacc.org)

# The Redistribution

## The First 2%

Art  
39

Art  
40

Art  
42

Grocery

Other

Grocery

Other

Grocery

Other

→ Current practice has been created in many stages over the past several decades.

→ Most recent change was 2015

→ The General Assembly has layered new policy decisions on top of older ones.

→ Current model is not what the body would create now if starting anew.



# Redistribution Components

## Point of Sale

- Based on current sales data
- Helps keep tax \$ where it's generated.
- Currently, the “Point of Sale” is the “Point of Destination”
- Applies to A39 and A42 non-food & 50% of all food taxes

# Redistribution Components

## Per Capita

- Uses July 1 county population estimates from OSBM
- Helps push money out to counties that do not have major sales/retail activity.
- Applies to Article 40

# Redistribution Components

## Grocery Allocation Formula

- Uses FY 1997-98 grocery point of sale data to distribute taxes on grocery sales
- Benefits shrinking counties
- Retailers no longer report the county where grocery sales occur
- Applies to 50% of food under all articles

# Redistribution Components

## 1987 Adjustment Factors

- Examples: Dare, 1.49; Mecklenburg, 0.89
- In 1987, Point of Sale was still defined as the retailer's location.
- Point of Sale redefined as “point of destination” in 2001, eliminating problem the Factors were created to solve.
- Applies to A40 and grocery sales under A42

# Redistribution Components

## 2015 Redistribution

- The First 2¢ are distributed 75% point of sale; 25% per capita
- 2015 uses percentages calculated by NCGA staff to push funds to counties that would benefit under a 50/50 scenario
- In theory, 79 counties benefit
- Impacts all articles